



THE CITY OF SAN DIEGO
MANAGER'S REPORT

DATE ISSUED: June 11, 2003 REPORT NO. 03-114

ATTENTION: Honorable Mayor and City Council
Docket of June 17, 2003

SUBJECT: COLLEGE ARCO - CONDITIONAL USE PERMIT, SITE
DEVELOPMENT PERMIT, PHASED PROJECT REDEVELOPMENT
PERMIT - PROJECT NO. 5167
COUNCIL DISTRICT 7, Process Four

REFERENCE: Report No. PC-03-086 from May 1, 2003 denying the application for the
proposed sale of beer and wine

OWNER/
APPLICANT: A&B Family Investments

SUMMARY

Issues - 1) Should the City Council Approve the appeal of the Planning Commission decision and approve the sale of alcoholic beverages as a part of the proposed project?

Staff's Recommendation -

1. Approve Conditional Use Permit No. 8467;
2. Approve Site Development Permit No. 10839; and
3. Approve Phased Project Redevelopment Permit No. 10840.

Planning Commission Recommendation - The Planning Commission voted 4-2 with Commissioner Garcia absent on May 1, 2003, to approve the proposed conversion of the

existing service bay into a convenience store and denied the application for the sale of alcohol on the premises.

Community Planning Group Recommendation - The College Area Community Council passed two separate motions regarding the proposed project on December 11, 2002, effectively recommending approval of the convenience store and excluding the sale of alcoholic beverages (Attachment 7). The first motion to approve the conversion of the service bay into a convenience store passed with a vote of 9-1 with the chair abstaining. The second motion to Deny the sale of alcoholic beverages on the site was passed with a vote of 7-2 with the chair abstaining.

Other Recommendations - Department of Student Affairs, San Diego State University
Please see Attachment No. 9

Environmental Impact - The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 - New Construction or Conversion of Small Structures.

Fiscal Impact - None. The property owner will bear all of the cost associated with the processing of this application.

Code Enforcement Impact - None.

Housing Impact Statement - None. The project proposes commercial development within a designated commercial zone.

Traffic Impact Statement - The proposed project will generate an additional 232 average daily trips, based on cumulative trip generation rates for the conversion of the existing service bay into the proposed retail space. The existing site access to College Avenue and Montezuma Road would remain the same. The potential increase in traffic is insignificant to the surrounding street network.

Water Quality Impact Statement - A Water Quality Technical Report for this project has been prepared by a Registered Civil Engineer. Permanent post-construction treatment structures will be installed and maintained by the property owner as a condition of this permit. Therefore, the project would conform to the City of San Diego Storm Water Standards.

BACKGROUND

The College Arco project proposes the conversion of an existing 625 square-foot automotive service bay into a convenient store for the retail sale of various and sundry items including prepackaged food and alcoholic beverages limited to beer and wine. The 0.25 acre site is located

at 5111 College Avenue at the corner of Montezuma Road within the Core Subarea of the College Community Redevelopment Project Area (Attachment 1). The College Area Community Plan designates the site for commercial land use (Attachment 2). The site is zoned CN-1-2 and includes the Community Plan Implementation Overlay Type "B" (CPIOZ-B). The property is developed and operating as a service station and repair shop and includes two canopies with ten fuel dispensers, a small snack shop and the existing service bay. The property is surrounded by a variety of institutional, commercial and high density residential land uses including the San Diego State University Foundation property to the west, restaurant and retail sales to the north, commercial offices to the east and student housing to the south.

The project requires a Conditional Use Permit (CUP) for the proposed conversion of the service bay to a convenience store and, for the sale of alcoholic beverages. The existing station was built in 1964 and therefore, predates the requirement for a CUP. However, the conversion of the service bay to a convenience store (with or without) the sale of alcohol, precipitates the requirement for a Conditional Use Permit.

The project requires a Site Development Permit (SDP) because the project site is located within the College Area Community Plan Implementation Overlay Zone. And finally, the project requires a Phased Project Redevelopment Permit (PPRP) because the project site is located within the Core Subarea of the College Community Redevelopment Project Area.

APPEAL DISCUSSION

The Planning Commission heard the project on May 1, 2003. After reviewing the project and listening to public testimony, the Commission passed a motion to approve the conversion of the service bay for a convenience store and deny the sale of alcoholic beverages. The decision to deny the sale of alcoholic beverages was based largely on the perception that this outlet would provide an additional source of alcohol and promote underage drinking within the College Area community despite the fact that the Census Tract is not considered overly saturated by the Alcohol Beverage Control (ABC). The decision was based on several factors including the high incidence of student related parties in this area, the location of the College Arco in close proximity to the University and, the number of underage, unsupervised students enrolled in the University and living on or near the campus. The Planning Commission also determined that the project was within 600 feet of an adjacent Federal Census Tract identified as a high crime area according to the San Diego Police Department Statistics and does have an over saturation of existing licenses for the sale of alcohol according to the ABC.

The project applicant, Mr. Arkon Somo has appealed the Planning Commission decision contending that the exclusion of the sale of alcoholic beverages was based on a moral argument rather than the prescribed land use issues regulating this type of use. Mr. Somo is making reference to the fact that the ABC allows for five licences for the "off-sale" of alcoholic beverages within Census Tract 29.04 (off-sale meaning the purchase is not consumed on the premises). Currently, only one approved off-sale licence exist in the Census Tract leaving four available

before the area is considered saturated by ABC standards. Additionally, Mr. Somo is citing the San Diego Police Department crime statistics for patrol beat 185 that show the area to be below 120% of the citywide average, and therefore, by the city's definition, it's not considered a high crime area. However, it should be noted that the statistics used for the Planning Commission report and hearing and cited by the appellant, have recently been revised to reflect the Census Tract rather than the police beat and now are 144.3% of the citywide average, and therefore, considered a high area (Attachment 8). Also, the point was made during public testimony by the University representatives, that many of the alcohol related incidents that occur on the campus are not included in the Police statistics.

Development Services continues to support the project because the applicant has complied with all of the applicable regulations contained within the Land Development Code for the proposed use. Staff has considered the project and believes that the sale of alcohol on a limited basis would not have a significant effect on the community. The Development Permit includes conditions from the San Diego Police Department's Vice Unit designed to minimize loitering, provide illumination on the premises and restrict the sale of fortified beverages and single containers. Development Services has included restrictions on accessory uses such as video games and provided limitations on advertising and reduced the hours alcohol may be sold. The San Diego Police Department and the Alcohol Beverage Control have no outstanding issues and the project was categorically exempt from the California Environmental Quality Act. Therefore, staff recommends that the City Council approve the appeal and approve the sale of alcoholic beverages, limited to beer and wine, as a part of the Conditional Use Permit.

ALCOHOL SALES

Following is a discussion of five factors in the Code which need to be evaluated in determining if the use is permitted "by right" without a hearing, or requires a conditional use permit. Because three of these five criteria are not met, a conditional use permit is required for the alcohol use. Findings to support or deny a conditional use permit are contained in Attachment 6.

The Limited Use Regulations Section 141.0502(b)(1) do not permit alcoholic beverage outlets in the following locations:

1. Within a Federal Census tract, or within 600 feet of a Census Tract, where the general crime rate exceeds the citywide average general crime rate by more than 20 percent.

As previously noted, the information available at the time of the Planning Commission hearing was derived from the San Diego Police Beat for the College area and did not exceed the citywide average general crime rate by more than 20 percent. Statistics provided by the San Diego Police Department for this area identified as Beat 815 (College East) showed an average crime rate of 108.02, or eight percent higher than the citywide average. Therefore, by definition, the area was not considered to be high crime. Since that time, the Police Department has updated the information system to correspond to the Census Tracts rather than the police beats and now show

the area to be 144.3% of the citywide average. Therefore, the project site is now defined as a high crime area.

2. Within a Census tract, or within 600 feet of a Census Tract, where the ratio of alcoholic beverage outlets exceeds the standards established by the California Businesses and Professional Code (Section 23958.4).

The project is located within Federal Census Tract No. 29.04 which permits a total of five off-sale alcoholic beverage outlets. There is currently only one existing off-sale outlet within the Census Tract therefore, the addition of the proposed outlet would still be below the allowable limit.

3. In a Redevelopment Area.

The proposed project is located within the College Community Redevelopment Project Area and therefore, a Conditional Use Permit would be required for the proposed off-sale alcoholic beverage outlet.

4. Within 600 feet of a public or private accredited school, public park, playground or recreational area, church, hospital or a San Diego County Welfare District Office.

The proposed project is within 600 feet of the San Diego State University Campus therefore, a Conditional Use Permit is required for the off-sale of alcoholic beverages.

5. Within 100 feet of residentially zoned property.

The proposed project is within 100 feet of residentially zoned property therefore, a Conditional Use Permit is required for the off-sale of alcoholic beverages.

In summary, the off-sale alcoholic beverage outlet requires a Conditional Use Permit due to the proximity of the San Diego State University Campus, residentially zoned property and the College Community Redevelopment Project Area. However, even though the area is considered high crime, the Police Department continues to support the application and up to four additional off-sale alcoholic beverage outlets are permitted within the Census Tract.

CONCLUSION

The proposed conversion and remodel of the existing service bay to a convenience store has the support of all interested parties including the Planning Commission and the College Area Community Council. However, the Community Council and the adjacent San Diego State University do oppose the off-sale of alcohol as a part of the project. Development Services staff supports the proposed project including the off-sale of alcoholic beverages. The recommendation to support the project is based on the compliance with the development regulations of the underlying zone and the other applicable sections of the Land Development Code including the

crime and alcoholic beverage outlet statistics from the San Diego Police Department and the Alcoholic Beverage Control. The project has been categorically exempted from the California Environmental Quality Act and all other issues have been resolved. Development Services and Planning staff have determined that the proposed sale of alcohol as a part of the project is consistent with the regulations of the Land Development Code as permitted with an approved CUP. Additionally, the San Diego Police Department has determined that a finding of public convenience or necessity consistent with the Alcohol Beverage Control (ABC) Guidelines based on the number of allowable outlets within the surrounding Census Tract. While city staff understands the concerns forwarded by the University and the community group regarding underage drinking, the deterrent and enforcement of that activity is not a land use issue addressed within the Land Development Code.

ALTERNATIVES

1. Deny the Appeal and Deny the sale of alcoholic beverages as part of the project, or;
2. Approve the Appeal and Approve the project with modified conditions.

Respectfully submitted,

Tina P. Christiansen, A.I.A.
Development Services Director

Approved: P. Lamont Ewell
Assistant City Manager

CHRISTIANSEN: JPH

Note: The attachments are not available in electronic format. A copy is available for review in the Office of the City Clerk.

Attachments:

1. Community Plan Land Use Map
2. Project Location Map
3. Project Data Sheet
4. Project Site and Building Elevations Plan
5. Draft Permit with Conditions
6. Draft Resolution with Findings
7. Community Planning Group Recommendation
8. Census Tract and Police Beat Statistics
9. Letter of Opposition
10. Ownership Disclosure Statement

11. Copy of Appeal